

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

FEB 23 2007

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEVEN R. PLACEK

Appeal No. 2006-2371
Application No. 10/806,859

ON BRIEF

Before OWENS, BAHR and FETTING, *Administrative Patent Judges*.

OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

The appellant appeals from a rejection of claims 1-11, which are all of the pending claims.

THE INVENTION

The appellant claims an adjustable platform. Claims 1, 2 and 8 are illustrative:

1. A universal, adjustable boat platform comprising:
a telescopically adjustable tubular framework coupled between bench seats of a V-hull boat; and
a vertically adjustable seat.
2. An adjustable boat platform insert for installation upon a V-bottom boat comprising:

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a platform for providing a flat, level, stable and elevated surface from which to perform fishing operations from;

a frame attached to an inside of a V-bottom boat; and

a captive pin set for securing said platform to said frame.

8. A universal, adjustable platform comprising:

a telescopically adjustable tubular framework;

a vertically adjustable casting seat;

a platform for providing a flat, level, stable and elevated surface from which to perform fishing operations from; and

a captive pin set for securing said a platform said a frame.^[1]

THE REFERENCES

Tenneson	828,072	Aug. 7, 1906
Loffler	4,624,209	Nov. 25, 1986
Anthonijsz	4,698,034	Oct. 6, 1987
Johnson	4,766,838	Aug. 30, 1988

THE REJECTIONS

The claims stand rejected as follows: claims 2, 3 and 5-7 under 35 U.S.C. § 102(b) as anticipated by Loffler; claims 1, 2, 4, 8 and 9 under 35 U.S.C. § 103 as obvious over Tenneson in view of Johnson; and claims 9-11 under 35 U.S.C. § 103 as obvious over Tenneson in view of Johnson and Anthonijsz.

1 The appellant should delete one of the appearances of "from" in "from which to perform fishing operations from" in claims 2 and 8. Also, in claim 8, "securing said a platform said a frame" should be changed to "securing said platform to a frame".

OPINION

We reverse the aforementioned rejections. We need to address only the independent claims, i.e., claims 1, 2 and 8.²

Rejection under 35 U.S.C. § 102(b)

Loffler discloses "a kit for converting two canoes or other boats of open hull construction, having gunwales into a stable multi-hulled watercraft, such as a catamaran, which both has substantial load-carrying capabilities and is quickly and easily assembled and disassembled to be carried on the roof of a car or van" (col. 1, lines 51-57). Examples of the other boats of open hull construction are fishing runabouts, sailing hulls and dinghys (col. 3, lines 64-68). The kit includes deck sections (5) that are attached to boat sides (11) using fasteners (17), each of which has a central hole (35) for receiving a bolt or keeper pin (39) that goes through a hole (41) in the deck section (col. 5, lines 45-49; fig. 13). The deck sections are tied down using straps (47) that secure the keeper pins in place (col. 5, lines 53-61).

The appellant argues that "Loffler discloses a kit for attachment to a *multi-hull* watercraft in which the deck assumes the contour of the two watercraft that are joined by the deck.

² The examiner does not rely upon Anthonijsz for any disclosure that remedies the deficiency in Tenneson and Johnson as to the independent claim (8) from

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Loffler fails to disclose a frame that is attached to the inside of a single V-bottom boat" (brief, page 7). The examiner's response is that "the claims in no way positively recite a single hull in any fashion so as to define over attachment to multiple hulls" (answer, page 5).

The appellant's claim 2 claims an insert, and the preamble requires that the insert is "for installation upon a V-bottom boat", i.e., capable of being installed upon a V-bottom boat. During patent prosecution, claims are to be given their broadest reasonable interpretation consistent with the specification, as the claim language would have been read by one of ordinary skill in the art in view of the specification. See *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); *In re Sneed*, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983). An insert is "something that is inserted or is for insertion", where "insert" means "to put or thrust in", "to put or introduce into the body of something", or "to set in and make fast".³ Those definitions indicate that an insert is put in or set in something, in this case a boat, and the appellant's specification does not give "insert" any broader meaning. Instead, consistent with the ordinary meaning of "insert", the specification

which claims 9-11 depend.

³ *Webster's New Collegiate Dictionary* 597 (G. & C. Merriam 1973).

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indicates that the insert (10) is put or set into a (i.e., one) boat (figure 1). Loffler's kit meets the claim requirement of "for installation upon a V-bottom boat" because that phrase, by itself, encompasses installation upon a V-bottom boat and anything else such as Loffler's other boat. Loffler's kit, however, is not an "insert for installation upon a V-bottom boat" as that phrase is most broadly construed in view of the appellant's specification.

We therefore find that the examiner has not established a prima facie case of anticipation over Loffler of the invention claimed in the appellant's independent claim 2 and its dependent claims 3 and 5-7.

Rejections under 35 U.S.C. § 103

Tenneson discloses a boat "having an inner part or frame constructed of hinged sections adapted to fold lengthwise and an outer covering of canvas or other suitable waterproof flexible material" (page 1, lines 10-14). The boat is held in its open position by thwarts (1) (page 1, lines 89-93 and 98).

Johnson discloses an auxiliary or supplemental seat for a rowboat or a small fishing boat, especially one having a flat or slightly curved bottom (col. 1, lines 6-8; col. 3, lines 31-33; col. 4, lines 4-7). The seat "includes outwardly extendable opposite end portions which are engageable over the gunnels of a

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boat and which are resiliently urged inwardly relative to one another so as to securely clamp the frame in a mounted position on the boat" (col. 1, lines 12-16). The seat also has a mounting plate including a central opening through which a seat supporting spindle is insertable and vertically adjustable to allow the user to selectively adjust the height of the seat relative to the boat hull (col. 1, lines 20-26). The seat "is both selectively horizontally and vertically adjustable with respect to the hull of the boat to thereby permit a wide range of seating adjustments, placements and alignments to be achieved as desired by a person utilizing the boat" (col. 3, lines 26-30).

The appellant argues that Johnson fails to disclose a framework coupled between bench seats as required by claim 1 (brief, page 8). The examiner argues that "framework coupled between bench seats" does not require that the framework is coupled to the bench seats but, rather, encompasses coupling the framework to the boat in any manner, provided that the framework is positioned between bench seats (answer, pages 5-6). The examiner argues that "one of ordinary skill in the art would recognize that the exact position of application of the seat of Johnson within a boat would have been an obvious choice, based upon desired location within the boat, and to position same anywhere within the boat of Tenneson, including a position

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physically placed between the existing bench seats is not patentable" (answer, page 6).

The relevant ordinary meanings of "couple" are "to connect for consideration together", to fasten together, and "join".⁴ Thus, the ordinary meanings indicate that "framework coupled between bench seats" means that the framework has a connecting, fastening or joining relationship with the seats. That meaning is consistent with the appellant's specification, wherein the framework is disclosed only as connecting or joining the bench seats (page 10, lines 7-9). Thus, the examiner's interpretation of "framework coupled between bench seats" in view of the specification is unreasonably broad.

Regarding claims 2 and 8 the appellant argues that Johnson fails to disclose the required platform for providing a flat, level, stable surface (brief, pages 8-9). The "response to argument" section of the examiner's answer (pages 5-6) does not include a response to that argument, and the examiner's explanation of the rejection (final rejection mailed June 8, 2005, page 3) does not explain how the applied references disclose, or would have fairly suggested to one of ordinary skill in the art, a platform that is flat and level.

⁴ Webster's New Collegiate Dictionary, *supra* note 3, at 261.

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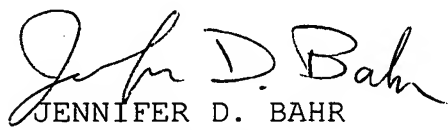
For the above reasons we conclude that the examiner has not established a prima facie case of obviousness of the inventions claimed in the appellant's independent claims 1, 2 and 8, and the claims that depend therefrom.

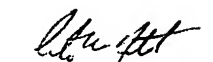
DECISION

The rejections of claims 2, 3 and 5-7 under 35 U.S.C. § 102(b) over Loffler, claims 1, 2, 4, 8 and 9 under 35 U.S.C. § 103 over Tenneson in view of Johnson, and claims 9-11 under 35 U.S.C. § 103 over Tenneson in view of Johnson and Anthonijsz, are reversed.

REVERSED


TERRY J. OWENS
Administrative Patent Judge


JENNIFER D. BAHR
Administrative Patent Judge


ANTON W. FETTING
Administrative Patent Judge

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Law Offices of John D. Gugliotta, PE
202 Delaware Building
137 South Main Street
Akron, OH 44308

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